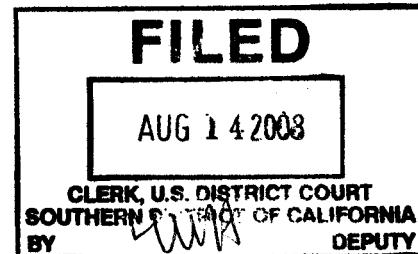


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 12 UNITED STATES OF AMERICA



13
 14 UNITED STATES DISTRICT COURT
 15 SOUTHERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA, 17 Plaintiff, 18 v. 19 JOSE SOBERANES-GUTIERREZ, 20 Defendant.	16) Magistrate Case No. 08MJ2188 17) 18) STIPULATION OF FACT AND JOINT 19) MOTION FOR RELEASE OF 20) MATERIAL WITNESS(ES) AND <u>ORDER THEREON</u> 21) 22) (Pre-Indictment Fast-Track Program)
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23 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
 24 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
 25 Carla J. Bressler, Assistant United States Attorney, and defendant JOSE SOBERANES-
 26 GUTIERREZ, by and through and with the advice and consent of Julie A. Blair, counsel for
 27 defendant, that:

28 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
 and (v)(II).

29 //

CJB:es:7/18/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
 2 provide the signed, original plea agreement to the Government not later than five business days
 3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
 5 before **August 18, 2008**.

6 4. The material witnesses, Trancito De Jesus Reina-Rivera, Raul Quiroz-Iniestra and
 7 Juan Carlos Zuniga-Zuniga, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
 9 b. Entered or attempted to enter the United States illegally on or about
 10 July 15, 2008;

11 c. Were found in a vehicle driven by defendant in or near Rancho San Diego
 12 Town Center, California and that defendant knew or acted in reckless disregard of the fact that they
 13 were aliens with no lawful right to enter or remain in the United States;

14 d. Were paying ~~one~~ ^{one} ~~someone~~ ^{JSG Gv} \$250 to ~~defendant~~ to be brought into the United States illegally
 15 and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
 17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
 19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
 20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
 21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
 23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
 25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
 26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
 27 of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of
 Material Witness(es) And Order Thereon in
 United States v. Jose Soberanes-Gutierrez

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

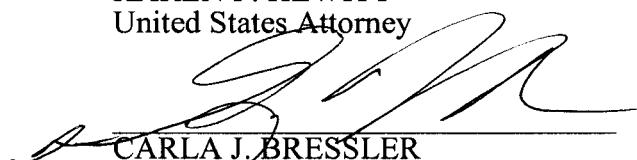
9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
United States Attorney

15 Dated: 8/14/08



CARLA J. BRESSLER
Assistant United States Attorney

16 Dated: 7-28-08.



JULIE A. BLAIR
Defense Counsel for Soberanes-Gutierrez

17 Dated: 7-28-08.



JOSE SOBERANES-GUTIERREZ
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

3 THE STIPULATION is admitted into evidence, and,

4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to their country of origin.

6 || SO ORDERED.

Dated: 8/14/08


United States Magistrate Judge